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WORKERS' COMPENSATION NEWS



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Workplace Injuries - What do I do?

WORKERS' COMPENSATION BENEFITS



It's Tuesday morning and Dave, one of your best employees, is in your office. He tells you he injured his back on the job last week moving some trusses. His back worsened over the weekend so he saw his family doctor yesterday. His physician wants him to stay off work for a while and undergo some testing and physical therapy. The doctor says Dave may need back surgery if his condition doesn't improve. What do you do?

First, gather as much information as you can about the injury. How and when did it happen? Who else was involved? Your workers' compensation insurance carrier will need this information when you report the injury to them. Also, you will want to see if these types of accidents can be avoided in the future.

Next, contact your insurance company. Some carriers have telephone claim centers so you can phone in to report the injury and the company can immediately begin processing the claim. You can also complete and submit a **First Report of Injury (FROI)** to your insurance company. If you don't have the correct form, contact your insurance carrier or call the Employment Relations Division.

The Insurance Company will ask for some basic information - specifically:

- ★ Dave's full name, address and social security number,
- ★ your business name, address and policy number,
- ★ the date and time of the accident,
- ★ a description of how the accident or injury happened,
- ★ wage information for the 4 pay periods prior to the injury, and
- ★ the name of Dave's doctor.

They will also ask you when you reported the accident, to whom you reported it and if you have any reason to question the accident.

Dave can also file the claim information with the insurance company. But, as the employer you shouldn't assume he will do so.

The insurance company will gather additional information when they receive the **First Report of Injury**. They may take statements from you, Dave, and any witnesses or supervisors. They will also contact Dave's doctor for information regarding the injury. This type of investigation occurs on cases where the employer is disputing the injury as well as on routine claims, particularly if the worker is losing wages as a result of the injury. The insurance company has 30 days from the time they receive Dave's claim to accept or deny it. If they can't complete the investigation within that time, they can start paying Dave benefits under a reservation of rights (they reserve the right to deny the claim after the investigation is complete) to help him get by while they're completing the investigation.

Let's fast forward. You've filed all the paperwork, the insurance company has completed their investigation and the carrier has accepted

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EDITOR:
Raini Williams
P O Box 1728
Helena, MT 59624
(406) 444-1574



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liability. What can you and Dave expect next?

If Dave's doctor says he is unable to work, he will be entitled to **Temporary Total Disability (TTD)** benefits. These benefits are paid while the worker is unable to earn any wages as a result of their injury and until the doctor determines their condition has improved as much as it will. The **TTD** rate is paid at $66 \frac{2}{3}$ of the worker's average weekly wage at the time of injury. That's why you were asked to provide the wages for the 4 pay periods prior to the injury. The maximum **TTD** rate for injuries occurring between July 1, 1996 and June 30, 1997 is \$384 per week.

During this period of **Temporary Total Disability**, the insurance company will keep in touch with the doctor to monitor Dave's progress. It's also a good idea for you to keep in touch with Dave during his recovery. If he knows you care about him as a person and you take the time to let him know what's happening, Dave's chances of an early return to work increase. This may mean lower claim costs for the insurer and possibly lower premiums for you.

A rehabilitation counselor may be assigned to work with you and Dave to determine if he could return to work at a modified job. The counselor will talk to the doctor about Dave's restrictions and limitations. Then the counselor will contact you to see if you can modify Dave's job duties so he can return to work with the restrictions placed on him. This is a win-win situation. Dave returns to work, maintains his contact (and loyalty) with you and his fellow workers, and provides you with his expertise and productivity. At the same time, the amount of wage loss benefits paid by the insurance company is lessened, and this can have a positive impact on your premiums.

If you can modify work but can't pay Dave the same salary as before, the insurance company can supplement his wages by paying **Temporary Partial Disability (TPD)** benefits. These benefits are paid when an injured worker has a physical restric-

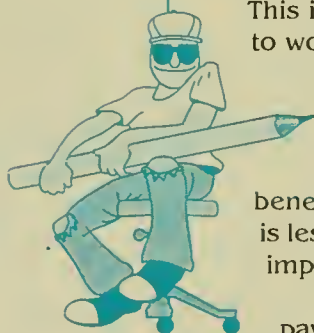
tion and is approved to return to a modified or alternative job but still suffers a wage loss because of the restriction. **TPD** benefits are based on the difference between the worker's average weekly wage at the time of injury and his earnings at the modified job. **TPD** benefits cannot be more than the worker's Temporary Total benefit rate. **TPD** benefits are limited to 26 weeks.

If Dave can't return to his previous job and you can't offer him modified work, the rehabilitation counselor may identify other jobs Dave can handle considering his restrictions, education, past work history and skill levels. These jobs can be used to develop a rehabilitation plan, calculate additional benefit entitlement and assist Dave in returning to the workforce.

Let's jump forward again. Several months have passed, Dave has had back surgery and his doctor doesn't expect his back to improve further - Dave's reached **Maximum Medical Healing**. The doctor has also determined Dave's restrictions are permanent but he's capable of working in other employment. Dave is no longer entitled to **Temporary Total Disability** benefits or **Temporary Partial Disability** benefits. However, he may be entitled to **Permanent Partial Disability** benefits (**PPD**). **PPD** benefits are paid to workers who are permanently impaired due to their injury but can return to work in some capacity.

To determine this, Dave may be evaluated for an impairment rating. The impairment rating is a medical determination of the permanent injury remaining after the patient has healed. The rating is given as a percentage of loss of function of the whole person. For example, after Dave's back surgery he may have a permanent impairment of 10% of the whole person. **Note:** Not all claimants will be entitled to an impairment award.

This percentage would be converted to a dollar award meant to help compensate Dave for the permanent physical damage he's suffered because of his injury. He may be entitled to additional percentage points based on his age, education, restrictions and wage loss. And - the claim is not over yet.





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TYPES OF BENEFITS

■ **Medical Benefits** - Benefits which cover medical expenses incurred because of the injury.

WAGE LOSS OR INDEMNITY BENEFITS

Temporary Partial Disability (TPD) Benefits - paid to workers temporarily unable to return to the position they held at the time of their injury, but able to work in a modified or alternative position.

TPD benefits are calculated on the difference between the workers' average weekly wage at the time of the injury and the actual weekly wage they earn in the modified or alternative position, but may not exceed the state's average weekly wage and are limited to 26 weeks.

■ **Permanent Partial Disability (PPD) Benefits** - paid to workers who are permanently impaired due to their injury but are able to return to the workforce in some capacity. Some permanently partially disabled workers may also be eligible for an impairment award.

PPD benefits are calculated at 66 2/3 of the workers' wages at the time they were injured, but can be no more than one-half the state's average annual wage.

■ **Temporary Total Disability (TTD) Benefits** - paid to workers who have a total loss of wages until they reach maximum medical improvement or return to the job they held at the time they were injured or to a job with similar physical requirements.

■ **Permanent Total Disability (PTD) Benefits** - paid to workers unable to return to the workforce due to their injuries.

TTD and PTD benefits are calculated at 66 2/3% of the workers' wages at the time they were injured, but can be no more than the state's average weekly wage.

■ **Rehabilitation Benefits** - paid to workers who have a wage loss because their injury forces them to accept work that pays less than their employment at their time of injury.

■ **Impairment Awards** - may be paid to qualified workers who are permanently partially impaired because of their injury.

Dave may be entitled to **Rehabilitation Benefits** if he has an actual wage loss as a result of his injury. For example, an actual wage loss occurs when a worker who was earning \$10.00 an hour at the time of injury can only work at minimum wage jobs now due to his restrictions. If Dave wants rehabilitation benefits for job placement or retraining he and the insurer must agree on a rehabilitation plan. The plan should be designed to provide Dave with the necessary job skills to return to the workforce in some capacity, either through job placement, training, education, or job modification. Rehabilitation benefits are paid at the same rate as the Temporary Total Disability benefits but last only as long as specified in the plan and no longer than 104 weeks.

Though impaired, Dave was able to return to some type of employment after his condition stabilized. If, after reaching maximum healing, Dave had no reasonable prospect of physically performing regular employment, he would be considered **Permanently Totally Disabled (PTD)** and eligible for **PTD** benefits. **PTD** benefits are paid at the **Temporary Total** benefit rate, with a possible reduction if the worker receives social security disability benefits. Dave would receive **PTD** benefits until he begins receiving social security retirement benefits.

In addition to these wage loss and rehabilitation benefits, the injured worker is entitled to reasonable medical expenses.

This article has been written to provide general information regarding workers' compensation benefits and applies to injuries occurring after July 1, 1995. It's important to remember each case is different and the law is constantly being refined and reinterpreted. Any questions you have regarding your responsibilities or your employee's entitlement should be addressed to your insurance company.

See the back page of the newsletter
for a related article -
"What Role Does ERD Play?"



Workers' Compensation News

Who Ya Gonna Call?

EMPLOYMENT RELATIONS DIVISION DIRECTORY

Regulation Bureau

Contractor Registration - 444-7734
or **1-800-556-6694**

Independent Contractor - 444-9661

Uninsured Employer's Fund - 444-9728

Workers' comp coverage issues
Penalty assessment and collection
Claims against uninsured employers
Compliance

Great Falls - 761-1730

Billings - 652-3080

Missoula - 728-7060

Medical Regulation Unit - 444-6526

Medical fee schedule
Hospital discount factors
Utilization and treatment guidelines
Impairment disputes

Plan I Unit - 444-6453

Self-insurance program

Plan II Unit - 444-6532

Extraterritorial petitions
Non-subject corporation
Corporate officer rejections
Trade group certification

Subsequent Injury Fund - 444-7737

Attorney Agreements - 444-7737

Silicosis Benefit Program - 444-7737

Claims Assistance Bureau

Claims Unit - 444-6543

Orders issued and status of orders requested
Settlements
Lump sum payments
Waiver of claim filing time
Extension of medical benefits
Subrogation orders
Direction of medical examination
Suspension of temporary total disability benefits
Reinstate benefits pending a hearing
Fatality order
Rehabilitation panels

Information on:

MCA statutes
Administrative rules
Claim filing
Employer responsibilities
Benefits
Claim processing requirements
Occupational disease

Data Analysis - 444-6513

Right to file letters
Employers' coverage information
Claimant information

Safety Bureau

Occupational Safety and Health - 444-6418

Mandatory inspections (public sector)
Safety consultations (private sector)
General safety training

Mining Section - 444-6419

Coal mine inspections
Mine foreman examinations
Metal/non-metal mine inspections
Mine safety training



Something New

If you've called the Employment Relations Division switchboard lately you may have noticed something new - an electronic menu system to direct you to the area you need. We installed the new system to provide better customer service - to get you where you need to be with the least amount of transfers or trouble. Please call direct if you know the number of the person with whom you need to speak - that's always the quickest route.

It's a new system, and as such, it may not be perfect.. We're eager to hear what you, our customers, think. Please call Kathy Burton at 444-1578 with any comments or suggestions you have to improve the system.

Thanks for your patience and cooperation.



Workers' Compensation News



L to R: Gary Workman, City of Billings Public Utilities; Robin Hape, ILX Lightwave; Governor Racicot; Bernard Barton, Powell County and Wayne Hall, JTL Group, Inc.

Congratulations!

GOVERNOR'S SAFETY AWARD WINNERS

Commissioner of Labor, Laurie Ekanger, announced the winners of the 1996 Governor's Awards for Safety. The Governor and the Department of Labor and Industry annually recognize employers who have made outstanding achievements in safety and for their personal contribution to improving safety and health in Montana workplaces. "These employers have demonstrated a personal commitment to safety," Ekanger said, "and have established initiatives in updating quality safety programs in their individual companies."

The awards were presented by Governor Racicot at the Governor's Conference on Workers' Compensation and Occupational Safety in Billings, on September 17. Each award recipient received an inscribed plaque.

This years winners were:

Public Utilities Department - City of Billings - Large Public Employer

Powell County - Small Public Employer

JTL Group, Inc. of Billings - Large Private Employer:

ILX Lightwave Corporation of Bozeman - Small Private Employer

"The Governor's Awards are Montana's highest honors given to employers in both the public and private sectors for excellence in improving safety and health in the workplace," Commissioner Ekanger stated. They recognize the commitment made to ongoing safety programs, the involvement of employees in developing in-house safety plans and the efforts employers made to enhance programs by seeking the advice and assistance of qualified professionals at the state and federal level.

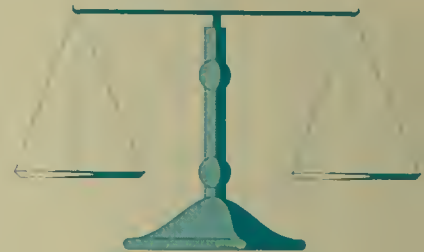
Award winners are annually nominated by labor unions, trade associations and other entities. The nominees are independently evaluated and rated by a panel of safety professionals who follow an objective method of evaluating safety programs and records.



What Role Does ERD Play?

The Employment Relations Division (ERD) is the regulatory agency for workers' compensation. ERD makes sure injured workers get the benefits they're entitled to and that insurers are not paying more to injured workers' than they need to.

There are three options for acquiring workers' compensation coverage in Montana: the State Compensation Insurance Fund, a private workers' compensation insurance company, or, if the employer qualifies, self-insurance. Employers make premium payments to their insurer and their insurer handles their workers' compensation claims.



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INDUSTRY
EMPLOYMENT RELATIONS DIVISION
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